



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/472,972	12/28/1999	YOJI KAMEO	0445-0275P	9431
7590 05/13/2009 BIRCH STEWART KOLASCH & BIRCH LLP P O BOX 747 FALLS CHURCH, VA 220400747				
EXAMINER KIDWELL, MICHELE M				
ART UNIT 3761		PAPER NUMBER		
MAIL DATE 05/13/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/472,972

Applicant(s)

KAMEO ET AL.

Examiner

Michele Kidwell

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-15 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) 2, 6-10, 13-15 and 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 5, 11, 12 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Election/Restrictions

This application contains claims 2, 6 – 10, 13 – 15 and 17 – 20 drawn to an invention nonelected with traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144). See MPEP § 821.01.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 11 – 12 and 21 are rejected under 35 U.S.C. 102(a) as anticipated by WO 98/42285.

With respect to claim 1, WO 98/42285 (hereinafter '285) discloses a sanitary napkin (20) comprising an elongate absorbent body having front and rear end portion, and an intermediate central portion (figure 1) and a pair of left and right rear wing portions (24,25), said left and right wing portion extending along the entire left and right sides of the absorbent body (figure 1) wherein a rearmost portion of each said left and right wing portions terminate at and is co-extensive with a rearmost portion of said rear end portion of the elongate absorbent body (figure 1), each said left and right wing

portions extending laterally from said rear end portion of said elongate absorbent body (42) such that a lateral extent of each said left and right wing portions is spaced a distance from said elongate absorbent body (figures 1, 3 and 6), said distance decreasing from said rear end portion toward an intermediate central portion of said elongate absorbent body (figure 1), and wherein each of the left and right wing portions includes a liquid retentive wing portion absorbent core that comprises embossed absorption paper, and after 1 minute after dropping 1g of a physiological solution of sodium chloride from about 1 cm above the absorbent core under conditions of 20°C and humidity of 65%, the solution disperses to an area of the wing portion absorbent core measuring no larger than 80cm² as set forth on page 11, 2nd paragraph.

The examiner contends that on page 11, 2nd paragraph, '285 discloses that the components can be assembled as taught in Ahr (US 4,321,924). Ahr discloses an absorption paper (36) that is affixed to the inner surface (34) of the topsheet (12) as set forth in col. 9, lines 15 – 19. Likewise, Ahr discloses that this combination of layers is embossed as set forth in col. 4, lines 40 – 43. As such, the disclosed napkin is structurally identical to the claimed invention, and one can reasonably presume that the disclosed article of will produce the same results when tested according to the applicant's disclosure.

As to claim 11, '285 discloses a sanitary napkin wherein the wing portion absorbent core extends substantially an entire length of the sanitary napkin as set forth in figure 1.

With reference to claim 12, '285 through the incorporation of Ahr discloses a sanitary napkin wherein each of wing portions includes a liquid permeable topsheet (12) and a liquid impermeable backsheet (14) with the liquid retentive wing portion absorbent core (36) located therebetween, said liquid retentive wing portion absorbent core extending substantially an entire width of the sanitary napkin in partial overlapping relationship with the elongate absorbent body as set forth in figure 2.

As to claim 21, '285 discloses a sanitary napkin wherein the left and right wing portions include portion (24) disposed between said intermediate central portion and said front end portion of the elongate body which extend laterally from the elongate absorbent body a distance greater than the left and right wing portions extend laterally from the elongate absorbent body adjacent the intermediate central portion (inwardly curved portion) and the front rear portion as set forth in figure 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 98/42285.

The difference between '285 and claim 4 is the provision that the embossments are in a specific pattern.

As set forth in the rejection of claim 1, '285 discloses embossments. With respect to the specific pattern of the embossments, the examiner contends that it would have been obvious to one of ordinary skill in the art to modify the embossments as desired in order to determine the most effective product since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range is within the level of ordinary skill in the art. The examiner further notes that the instant specification states that the embossing pattern is not particularly limited as disclosed on page 7, lines 2 – 3. The purpose of the embossments is to prevent liquid from dispersing in one direction and this same objective will be achieved by '285.

Claim 5 is rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over WO 98/42285.

With respect to claim 5, '285 and the incorporation of Ahr disclose the claimed absorbent paper which would presumably render the same test results if subjected to the claimed test.

Alternatively, '285 discloses wings with zones of extensibility as set forth on page 13, 2nd paragraph. As noted in this section, these zones help to eliminate bunching of the flaps and would be within the level of ordinary skill in the art to modify in order to determine the most effective product.

Response to Arguments

Applicant's arguments filed January 30, 2009 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., an article where liquid is not blocked from the main body) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

With respect to Ahr, the examiner maintains that Ahr discloses an absorption paper (36) that is affixed to the inner surface (34) of the topsheet (12) as set forth in col. 9, lines 15 – 19. Likewise, Ahr discloses that this combination of layers is embossed as set forth in col. 4, lines 40 – 43. .

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 3761

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michele Kidwell/
Primary Examiner, Art Unit 3761